LIBRARY
SUPREME COURT, U.S.

Office - Supreme Court, U.S.
FILED
FEB 1 1954
HAROLD B. WILLEY, Clerk

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1953

No. 11, Original

THE STATE OF MISSISSIPPI,
Complainant,

vs.

THE STATE OF LOUISIANA,
Defendant.

REPLY OF COMPLAINANT TO AFFIRMATIVE ALLEGATIONS AND PRAYER FOR AFFIRMATIVE RELIEF CONTAINED IN ANSWER OF DEFENDANT CONSTITUTING IN EFFECT A COUNTER-CLAIM OF DEFENDANT AGAINST COMPLAINANT.

HUGH L. WHITE,
Governor of the State of Mississippi;

J. P. COLEMAN,
Attorney General of the State of Mississippi;

G. H. BRANDON,
Special Assistant Attorney General and Counsel for the State of Mississippi.

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1953

No. 11, Original

THE STATE OF MISSISSIPPI,

Complainant,

vs.

THE STATE OF LOUISIANA,

Defendant.

REPLY OF COMPLAINANT TO AFFIRMATIVE ALLEGATIONS AND PRAYER FOR AFFIRMATIVE RELIEF CONTAINED IN ANSWER OF DEFENDANT CONSTITUTING IN EFFECT A COUNTER-CLAIM OF DEFENDANT AGAINST COMPLAINANT.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States of America:

Comes now the State of Mississippi, through Hugh L. White, Governor of said State, and J. P. Coleman, Attorney General thereof, and special assistant counsel for said State, and with respect shows that in and by Paragraphs 13, et seq. of the Answer of the State of Louisiana herein filed, the State of Louisiana has made certain affirmative averments and prayed the Court to grant unto it herein affirmative relief which in effect constitute a counter-claim

by the State of Louisiana, Defendant herein, against the State of Mississippi, Complainant herein, and to which the State of Mississippi deems it proper that it should reply, to the end that the issues between the parties in this action may be fully joined.

Now, therefore, the Complainant, the State of Mississippi, does thereunto answer, reply and plead as follows, to-wit:

(1)

Replying to Paragraph 13 of the Answer of the Defendant, the State of Mississippi denies all and singularly the allegations thereof; except that it is admitted that Diamond Island Towhead, after forming by accretion to Mississippi resulting in reliction from and against the former shores of Louisiana, was cut off from the mainland shores of the State of Mississippi as a result of the Mississippi River changing its course through the cut-off chute and gradually, after many years, forming there its main channel, and it is admitted that said Diamond Island Towhead and the accretions formed thereto are now located in a generally westward direction from the present main channel thread or thalweg of the Mississippi River; but it is here asserted that same nonetheless at all times was and yet is a part of the territory of the State of Mississippi.

(2)

Replying to Paragraph 14 of the Answer of the State of Louisiana, the State of Mississippi denies all and singularly the allegations thereof; except that the State of Mississippi admits that in or about the year 1933, the Corps of Engineers of the United States, acting in conjunction with the Mississippi River Commission of the United States,

made and effected an artificial cut-off across the neck of Diamond Point, and that the effect of such action was not to change or alter the boundary in such vicinity between the State of Mississippi and the State of Louisiana.

(3)

Replying to Paragraph 15 of the Answer of the State of Louisiana, the State of Mississippi denies all and singularly the allegations thereof.

(4)

Replying to Paragraph 16 of the Answer of the State of Louisiana, the State of Mississippi denies all and singularly the allegations thereof.

(5)

Replying to Paragraph 17 of the Answer of the Defendant, the State of Mississippi denies all and singularly the allegations thereof. Complainant avers that if it be true that about the year 1907 the Board of Commissioners for the Fifth Louisiana Levee District had a portion of the lands in controversy surveyed and claimed title thereto as being within the territory of the State of Louisiana, any such claim of the Board of Commissioners for the Fifth Louisiana Levee District was denied by the courts of Louisiana and no such claim has ever since been asserted by the State of Louisiana; and all such claims have ever since been abandoned by the Defendant.

(6)

Replying to Paragraph 18 of the Answer of the State of Louisiana, the State of Mississippi denies all and singularly the allegations thereof.

(7)

Replying to Paragraph 19 of the Answer of the State of Louisiana, the State of Mississippi denies all and singularly the allegations thereof; and the Complainant denies that the Defendant is entitled to any of the relief by it prayed.

By way of further denial of the right of the Defendant, the State of Louisiana, to have any of the relief for which the Defendant has prayed affirmatively or by way of counter-claim against the Complainant, the State of Mississippi does further aver and plead as follows, to-wit:

(8)

The State of Mississippi and its taxing subdivisions have levied and collected taxes upon the area and lands in controversy for a great number of years, all with the knowledge of and without complaint or protest on the part of the State of Louisiana, and, indeed, in its sovereign capacity by reason of the sale of portions of the lands for delinquent taxes, has owned certain parts and portions thereof, notably the said Diamond Island or Diamond Island Towhead, and executed forfeited tax land patents conveying the same.

(9)

That for much more than a half century prior to the institution of this suit and continuously over many years prior thereto many conveyances have been made under claims of Mississippi titles and under Mississippi laws of conveyance of all of the lands in controversy claimed by the Complainant to be within the sovereign jurisdiction and boundaries of the State of Mississippi wherein such lands are and have been described as located within Warren County in the State of Mississippi and the deeds and instru-

ments of conveyance evidencing such transactions were filed and are recorded in the Conveyance Records of Warren County, Mississippi to constitute public notice. The State of Louisiana is charged with notice of all of such transactions. That on divers and sundry occasions and in divers and sundry instances over a period of many, many years prior to the institution of this suit, and indeed over a period of time extending back more than half a century, the State of Mississippi through its courts has exercised civil and criminal jurisdiction and all rights and prerogatives of sovereignty over the lands and areas in litigation here claimed by the State of Mississippi to be within its sovereign boundaries, and indeed has exclusively exercised such jurisdiction thereover for a period of time of much more than fifty years prior to the date of institution of this suit.

(10)

That over a period of years extending for more than fifty years prior to the institution of this suit, and indeed at all times since the formation of the alluvial lands which are the subject of this litigation, the State of Mississippi by its executive and administrative officers and those of its political subdivisions has exercised full and exclusive jurisdiction and all rights, privileges and prerogatives of sovereignty over such lands and area and has claimed, asserted and maintained its sovereignty thereover as being a part of and within the territorial boundaries and limits of the State of Mississippi.

(11)

That continuously over a period of far more than fifty years prior to the institution of this suit and indeed at all times since the formation of the alluvial lands which are

the subject of this suit as being lands claimed by the State of Mississippi to be within its sovereign boundaries and limits, persons and individuals claiming rights and titles thereto under the laws of the State of Mississippi and as citizens of the State of Mississippi owing allegiance to said State, and entitled to the protection of said laws of the State of Mississippi have been, as they now are, in actual, open, notorious, adverse and hostile possession of such lands and area, claiming the same by virtue of the foregoing as owners thereof against the world and paying the taxes levied and assessed against the same by the State of Mississippi unto the State of Mississippi.

That the title, dominion and sovereignty of the State of Mississippi over the territory here in dispute and to the boundary herein asserted by it has long, and indeed at all times, been acquiesced in by the State of Louisiana.

Because of all of the foregoing facts, the Complainant avers and charges that the Defendant, the State of Louisiana, is guilty of laches and is estopped and barred from asserting any right or claim to relief as by it prayed in Paragraph 19 of its Answer and from having any of the relief by it, the Defendant, herein prayed; and furthermore, by reason of all the foregoing facts, and those averred in the original Complaint, the State of Mississippi has acquired full title and sovereignty to the territory shown herein to be in dispute, extending to the boundaries asserted by the State of Mississippi.

Wherefore, the State of Mississippi respectfully submits that all of the affirmative relief prayed by the State of Louisiana should be denied to it; and now further prays that by its decree the Court will fix and determine the boundary between the said two states so as to include within the territorial boundaries of the State of Mississippi all the

land, area and territory herein shown to be now in dispute between said states.

Respectfully submitted,

HUGH L. WHITE,
Governor of the
State of Mississippi;

J. P. COLEMAN,
Attorney General of the
State of Mississippi;

G. H. BRANDON,
Special Assistant Attorney General
and Counsel for the
State of Mississippi;

G. H. BRANDON,
Member of the Firm of Brandon,
Brandon, Hornsby & Handy,
Natchez, Mississippi,
Special Assistant Counsel.